



ON THE QUESTION OF STATE
FASCIZATION.

As the arrests in Berlin show, the state has stepped up its technological armament and surveillance. Agamben was one of the first to warn of the dangers of biometric facial recognition. Among millions of facial photos, the algorithms unerringly filter out the object they are looking for.

When we talk about techniques of government and power that are driving a process of fascization of the state, this certainly includes “biopolitical techniques” that are used to control and stabilize the population. Foucault has drawn attention to the various legal, disciplinary and security technologies and rationalities of government, which correspond, among other things, to different techniques and ways of dealing with epidemiological phenomena (exclusion, quarantine, vaccination). Contagion and epidemics are always also cultural categories whose management and administration are the result of a certain, albeit temporary, political rationality. With Covid, the biological-demographic-medical control of the population, and thus of each individual as a living being, has been tightened via a foreseeable – albeit largely repressed by the Western world – encounter of our bodies with a dangerous animal materiality.

In a text from 1973, which appeared in the Kursbuch, Manfred Clemenzen introduced the concept of structural state fascism, whereby the author presupposes that there are no fundamental functional differences between the forms of parliamentary democracy and the exceptional fascist states, but that only phenomenological changes can be observed, which can take drastic forms, including ruptures. This question has shifted. With regard to the new phenomenon of state fascization, we are not actually dealing with a new form of state, but neither are we merely dealing with phenomena, the sum of which then constitute

something like state fascism. The concept of state fascization, which emphasizes the processual aspect from the outset, includes a cyclical or situational change in governance, a shift and ultimately a reorganization of state apparatuses and forms of governance/government that have not yet found a final form, so that on the one hand the usual so that, on the one hand, the ordinary capitalist state has not been completely abolished and, on the other, it has not been decided whether the process of fascization will result in a fascist state of exception. The “institutional preventive dispositive” (Poulantzas) that characterizes the state today, which for Poulantzas also characterized authoritarian statism in the 1980s, has today become so entrenched in state and non-state apparatuses and institutions and has developed into a fundamental dispositive alongside the official state of parliamentary democracy, that one cannot only speak of a permanent overlapping of this dispositive with the official state or of a mutual osmosis, as Poulantzas still does, but of the dominance of a process of fascization characterized by the logic of prevention, which is completely new in its structure and does not correspond to any previous historical period of statehood. Due to a specifically coded crisis scenario (combating terrorism) and in particular due to the implementation of preventive logic, the security state today takes political and legal measures that change the structure of the normal capitalist state and transform its rule of law to such an extent that they can no longer be reconciled with the constitution in parts, but without having to deny the constitution itself. (In the liberal conception of the state, parliament is an expression of the general will, the nation and the people, and the institutionalization of the law takes place as a model of universal, general and formal norms. Here, the rule of law implies the control of the government and administration by parliament. Today, legitimacy incarnated above all in parliament has long since been suspended and is replaced by permanent and allegedly alternative-free attributions that focus on questions of efficiency and are guided

by a new technical rationality and are organizationally condensed in the executive and administration).

This development in turn points to important changes in the relationship between the international movements of capital and the operations of states, which affect not only its economic functions and modes of action, but also its political and organizational areas themselves. The contemporary state is not only constantly trying to find effective answers to economic and political crisis processes, but it is also transporting specific preventive logics into governmental techniques, which undoubtedly have their ultimate condition in a capitalization that has long since been reoriented towards the future. And this also means that the transformations of the state can by no means be clearly identified as a strengthening or weakening of its power but rather indicate an uneven development that suggests a weakening in relation to the capital economy and a strengthening in relation to the forms of authoritarian management. The latter is endangered by the increasing influence of private security services on the police management of conflicts and situations. The state would thus increasingly lose its monopoly on the use of force, precisely insofar as the means of coercion must be diversified: diplomatic, economic, social and cultural, leading to the multiplication of apparatuses in which financial violence is certainly the most effective, insofar as its effects can destabilize the entire social body, while the effects are differentiated).

The specifics of the contemporary state are no longer reflected in terms such as authoritarian neoliberalism. Other terms such as totalitarianism, authoritarian democracy or authoritarian statism also appear increasingly unsuitable to describe the characteristic and new nature of state transformations, which is why we propose the term structural state fascization, which also refers to the transformations of globalization as we have outlined them, as well as to new

national and international class and power relations that characterize the current historical phase of the world situation. The coming fascism, which must be placed in quotation marks as “fascism”, is not necessarily taking on the form today that was perhaps still in question in the 1970s. It should also be noted that the concept of fascism, especially in the left field, often enough jumps in where transformations, exceptions and fractures are to be addressed, but for which terms are still lacking.

However, if the concept of fascism is then completely omitted from the struggles for hegemony in theories and discourses, then there is no empty discursive space. We therefore find ourselves on difficult terrain. The term structural state fascization, as we are using it for the time being, is based on historical conditions that did not yet exist in the 1970s. The processes of the sharpening of the financial war machines and the purely future-oriented capitalization, the transforming crises and recession phases of industrial capital in particular, the implementation of neoliberal measures and projects such as deregulation, austerity policies, privatization of public institutions, the global fragmentation of production processes and the simultaneous creation of a fragmented global proletariat. The resulting effects today amount to a global ecological and social disaster program: climate change is taking on sharper contours and more and more people in the peripheries are being forced to vegetate in the slums of the big cities or in failed states.

We assume that this crisis development will continue to increase in frequency and intensity, and that social polarization will also intensify, not only in the South but also in the metropolises of the North, while at the same time a return to the national-socialist compromise will occur. At the same time, a return to the national-socialist compromise of Fordism, i.e. a special historical period characterized by systemic competition, class compromise, corporatism and

Keynesian economic policy, no longer seems possible today. For these reasons, the regulation of social fragmentation is increasingly being resolved by the police rather than by material gratifications. To the extent that the state reduces social benefits, it must upgrade its function as a social police force, for example by gearing its labor policy towards the increased use of repressive methods (restrictive management of unemployment and poverty by the Federal Employment Agency and Hartz4). Austerity and authoritarianism belong together. Or, to put it another way, the market and a strong state are mutually exclusive in neoliberal doctrine, but not in practice. So they do not contradict each other at all.

However, the new structural fascization of the state does not arise exclusively as a reaction to regressive development trends and crisis processes, but rather anticipates the coming trends, the economic, social and political crises and potential for conflict, which is also clearly stated in corresponding official announcements. To this end, the state is developing a range of techniques, such as new control and monitoring instruments that record, accumulate and evaluate data, techniques of quantification and measurement of the population and those of a police and military nature. The transformation of the ordinary capitalist state into a fascized state today is therefore not necessarily the result of a spectacular rupture, but rather of the creeping but steadily advancing accumulation, shifting, intensification and tightening of restrictive operations, through conversions and measures that do not necessarily have to lead to a fascist state, but do not rule out a rupture either. A very specific war machine is being integrated into the state, including the comprehensive militarization and expansion of police access within the framework of an ever-expanding security state, while at the same time restricting fundamental rights. Above all, the repressive apparatus is being given ever more technical means, legal possibilities and executive powers. Other measures include the merging of the police and military as well as the police and secret services (and also civilian and armed authorities); building on this is the

comprehensive surveillance, data collection and storage by state services; Furthermore, the increasing integration of the mass media into the ideological state apparatus, the creation and simultaneous criminalization of poverty while simultaneously lowering the reproductive level of the subaltern sections of the population, the cooperation of “security authorities” with fascist and terrorist networks at home (and similar militias abroad) and an increasingly aggressive and belligerent foreign policy. The tightening of laws, regulations and directives is evident, including the establishment of a criminal law against the enemy and legally enshrined powers of access far in advance of concrete criminal acts – up to and including preventive detention. On the other hand, however, the executive branch is constantly forging ahead with this development and anticipating it: for example, the Pentagon and CIA have been researching the scientification of torture for decades, and so-called “white torture” and other methods were extensively tested in the 1970s, while the ban on torture still exists. In the USA, there has been an exorbitant increase in extralegal executions abroad since 2001, mostly by drone attacks, but also by special forces, which are not preceded by any kind of legal proceedings. If an unlawful practice becomes known, this usually does not lead to its cessation, but to its subsequent legalization or tacit toleration. The boundaries between war, police operations and covert activities are becoming increasingly blurred. There is a legislative and, where this is not yet enforceable, an operational erosion of the population’s rights to protection from the state while maintaining the formal democratic superstructure.

The new war machines of capital correspond to the interplay of civil and repressive power in the state and tend to make both components indistinguishable. The state has long tended to privilege executive power, which is linked to the decline of legislative power and leads to a deep transformation of its administrative, governmental and juridical functions, the latter becoming redundant through the almost daily production of laws, decrees and directives,

while at the same time perfecting the functions of the social police, presenting itself overall as much more flexible and effective than the drastic interventions of the exceptional state. Carl Schmitt described the state as a motorized legislator and noted a growing motorization of the executive machinery. Today, the transactions and crisis surges of financial capital are accompanied by speeds and reactions that simply demand that laws in particular, which require parliamentary scrutiny and approval, must be replaced by rapid decrees. These requirements are produced by the acceleration of “market laws”. After the decrees, the directives express the next stage of adaptation or centralization of political representation in the executive. While the decree is considered a motorized law, the directive now becomes a motorized decree. Thus, the general rationality of the law is replaced by the technical rationality of decrees and directives, which also opens up the space for legal arbitrariness, insofar as what previously held the political fragmentation processes together, namely the law, is overlaid by a multitude of directives, norms, rulings and rules. The proliferation of regulations, laws and their manifold paraphrases on the occasion of every political event, certain conjunctures and situations is part of the abolition of the law. Existing laws are adapted or abolished depending on current requirements, and previously valid legal guarantees are leveled or adapted in such a way that they only further precarize the condition of the precarious. Think of special laws, the dismantling of rights, the specialization of the courts, the advance of criminal law, new police laws, facial recognition technologies, data surveillance and biometrics, pathologization, etc.

This type of technologization of state apparatuses takes place through the use of private, informal and state expert regimes that, through the use of techniques expressed in series of projects, practices, channels and supports, also create a statistical body of people that must be constantly monitored, evaluated and at the same time mobilized, precisely by exercising power over it. New codes, ranking

and rating procedures are constantly being installed and varied, with which the functioning of power is inscribed in a matrix of the molecular segregations of the population. The shift in power from the legislature to the executive, the loss of importance of the parties, the expansion of the bureaucracy and the shift in decision-making to informal power networks operating in parallel to the official state have already been used by Poulantzas to characterize authoritarian statism – for him a side effect of the intensification of the state's economic intervention, which now not only has to constantly issue rules, directives and regulations within the framework of short-term economic policy and technical rationality in accordance with the conjunctures, fractures and cycles of capital movements, but also has to act as a company itself. In terms of its economic interventions, the executive operates with a permanently changing set of regulations and normalizations that are geared towards and finely adjusted to specific conjunctures, situations and power relations. The rationality of these practices affects all legislative initiatives and procedures, which are elaborated and reworked in executive bodies, passed on regionally and locally, supplemented by decrees, directives and regulations, which are inscribed in financial, monetary, social and economic policies and increasingly serve the particular interests of big capital instead of marking a generality and universality guaranteed by law.

Governments and state apparatuses now have to take care of their own outputs, which are promoted by state evaluations and monetized by the financial markets, so that the state transforms into a factory of laws, decrees and regulations, indeed it transforms into a machine to produce rules and establish executive power. The state itself becomes a company. Taylorism can serve as a model for this to a certain extent, if it is understood as a mode of command structures and the design of a homogeneous, continuous and divided space-time in which each unit has its functional place, and space and time are oriented towards a finished product in mutual interpenetration. The real impact here, however, is not only to

be seen technically in the organization of the networks and dispositives of administration, but lies in the specific organization of power, which also means that the divisions of labour found in the economy are not simply reproduced, but take on their own forms in the administrations and bureaucracies. State fascization is therefore not simply aimed at the expansion of repression and authoritarian, racist and nationalist discourses and systems of opinion, but rather requires the use of high-tech techniques of power that no longer aim to control free individuals and citizens, but rather reinterpret and transform the population into a potential source of danger and, finally, a lasting change in the materiality of the state apparatuses and their interventions, so that one can indeed speak of a new dispositif of fascization. Finally, despite all attempts at monadic retreat, the private sphere is being absorbed into new public structures, while conversely the decline of the old public life is due to its instrumentalization for possessive individualism.

The questions of a new security or global police state (Robinson) are often negotiated as those of an exceptional state, following Agamben. In his book *Counter-Revolution*, Bernard Harcourt addresses the shortcomings of Agamben's concept of the exceptional state, which is currently much discussed again due to the Covid 19 pandemic. He writes: "The frame of reference of the state of exception is based on an imaginary dichotomy between rule and exception, a myth that idealizes and reifies the rule of law."

For Harcourt, the state of exception is merely a technique or modality of governance, but it does not necessarily indicate the systematics and strategies for the way the state governs today. It is precisely the aim of the state to make the constant shifts in states of emergency and exceptions legally effective and to legalize them.

The concept of the permanent state of exception, on the other hand, considers a certain tactic of counter-emergency to be the general rationality of the new political governance, while for Harcourt the methods of counterinsurgency and exceptions (in the USA) are completely legalized and anchored in the rule of law, namely through laws, legal memoranda, prosecutors and legal debates. The Bush administration's eternally long torture memos on issues of torture abroad (the equivalent of judicial decisions and legal texts) are part of a formalized legal apparatus created by the US to legalize methods of counterinsurgency. The law is not suspended, but counterinsurgency is made a lawful strategy. It is not about the binary of norm and exception, but about a model that legalizes and legitimizes counterinsurgency practices and resolves the tension between violence and legality. Harcourt has raised objections to Schmitt's dictum "the sovereign is the one who decides on the state of exception" and Agamben's attribution of the state of exception to the sovereign power, which is precisely in a position to suspend the legal order in a state of exception. (In Agamben's work, the concept of the exception has become the rule when he speaks of its permanence. This brings him closer to Harcourt).

Harcourt speaks of a coherent, legalistic system of counter-insurgency that is permanent and can be applied at any time, thus eliminating the opposition between law and exception. There are always struggles over the boundaries of the law, that is, the preservation of legality is mediated by strategies that oscillate between legality and illegality and use the gap to transform the illegality of the elites into legality. Gaps in the laws, which set all the mechanisms of control in motion, are transformed into laws via the detour of documents, regulations and memoranda. Harcourt points out that with the use of preventive system analysis to control the population, everything is justifiable and nothing is forbidden if it serves the criterion of the efficiency of the controlling system analysis. The rule of law is infinitely malleable.

In his new book *Capital Hates Everyone*, Lazzarato argues along similar lines when he writes that we are living in a time of blurring, of mixing the rule of law and the state of emergency. Therefore, the hegemony of neo-fascism should not be reduced to the strength of its organizations, but should be related to its ability to encroach on the state and the political and media system. With Harcourt, however, we are not only talking about an encroachment on the state; rather, it is the malleability of the constitutional state itself that allows post-fascist transformations of the state apparatus.

For Harcourt, waterboarding, solitary confinement, surveillance by the NSA, the intensification of police operations, etc. are methods and strategies for a new, entirely legal model of government that derives from the theory and practice of counterinsurgency warfare and does not represent the transition from a state of law to a state of emergency. Harcourt summarizes this in three points: The collection of all personal data, metadata and its analysis using the latest digital technologies, and that of the entire population. The goal is to know everything. Proof of identity such as IP addresses, smartphones and laptops must be issued and monitored. Selfies, tweets and posts are constantly being stimulated, controlled and valorized. Interrogations under torture are legalized through the formalism of law. When a dangerous minority is identified, it must be isolated and combated. Finally, the allegiance of the entire population, including their psyches and desires, must be obtained. We are dealing with the strategies of a counter-revolution without revolution.

In the USA, the executive is even setting up its own kind of court system. Camp inmates are reduced to bare life. Harcourt even speaks of terrorist methods that make counterinsurgency in the USA a paradigm of governance at home and abroad. The complex surveillance network, consisting of big tech companies, platforms, web browsers, retailers and smartphone apps, collects the private data

of the population and makes it accessible to the secret services. At the same time, there is a desire among the population for self-presentation and exposure. Harcourt writes: "Counterinsurgency, with its tripartite scheme (active minority, passive masses, counter-revolutionary minority) and tripartite strategy (gain total knowledge, eliminate the active minority, immobilize the masses) is a profoundly counterproductive self-fulfilling prophecy."

Could these methods, strategies and signs, which Harcourt analyzes as those of counterinsurgency, not be understood as those of a new fascism?

In his new book, Lazzarato deals with the differences between the old and new fascism, among other things. Adorno already indicated that the new fascism does not necessarily have to come with uniforms, boots and Nazi symbols. For Lazzarato, too, it is clear that after 40 years of neoliberal politics, what is emerging as the new fascism will not be a simple repetition of the interwar experience. For him, neo-fascism results from a twofold mutation, namely on the one hand from historical fascism and on the other from the organization of counter-revolutionary political violence. Historical fascism, once the revolutionary forces had been destroyed, was indeed an agent of the process of "modernization", which "integrated" socialism and used violence to eliminate any manifestation of the conflict. In Italy, he restructured traditional industry and created the film industry, reformed the school system and the civil code and, like the Nazis, established a kind of welfare state. Adam Tooze points out that the history of the intimate relationship between capital and fascism was rewritten and distorted during the Cold War, omitting, for example, the fact that as early as 1935, major banks such as JP Morgan collaborated closely with people who were later treated as fascist criminals.

For Lazzarato, the new fascism is a mutation of historical fascism in the sense that it is national-liberal instead of national-socialist. The political movements that emerged from '68 are now so weak that the fascists do not even need to take up their demands and twist them, as the fascists and Nazis did in the 1930s. In their book on authoritarian finance, Marlène Benquet and Théo Bourgeron ask whether the capital class, precisely because it is not threatened by any other class or competing elite, is still interested in democracy today. The new fascism therefore no longer needs the socialist veneer; on the contrary, it is ultra-liberal: it is in favor of the market, capital and individual initiative, even if it demands a strong state to exclude minorities and “foreigners”, a state that should simultaneously secure the market, business and, above all, capital.

The new reactionary libertarians go further than the neoliberals in restricting the role of the state: The state should not only be stripped of education, healthcare and infrastructure, but also of sovereign powers by continuing to privatize even the army, police and judiciary. Nevertheless, economic libertarianism and the vanguard of the second financialization (asset managers and hedge funds) have extremely authoritarian tendencies at the political level. If an ultra-harsh austerity policy has to be pursued that no longer recognizes financial and social redistribution downwards, then the social movements that may arise must be prevented in advance by orchestrating the restriction of freedoms and rights, and possibly only the suicidal use of violence remains to regulate social life, depending on the situation. Freedoms are taken away in order to preserve the fundamental freedom of the right to property and capital. In her book *The Code of Capital*, Katharina Pistor has shown that representatives of capital can hijack state power by influencing the law (as the code of capital) without having to take over the state apparatus.

It should also be noted that even the fascist state cannot exist in the medium term without legitimacy or recognition by the citizens; its power is based precisely on this recognition.

There is now also talk of neo-illiberalism (Hendrikse), which is based, among other things, on the fact that neoliberalism lost its ideological appeal after the financial crisis of 2008. In an increasingly lawless gig economy, in which capital replaces social contracts with offshore anonymity, the transnational capitalist class is even able to buy up governments. The neoliberal endgame is accompanied by ruptures and recompositions within the elites, both on a national and global scale.

Although neoliberal technocrats like to rail against oligarchs turning states into looting zones, neoliberal policies in no way challenge the power of the oligarchs, whose fortunes soar to unimagined heights with the help of central bank policies. Added to this is a political illiberalization that relieves the executive of various constitutional restrictions. While the previous waves of neoliberalization remained more or less within the boundaries of legality defined by liberal-democratic norms, rules and procedures, neo-illiberalization is characterized by an executive machine that increasingly uses illegal tactics to establish political functional systems that threaten to steer authoritarian neoliberalism into totalitarian channels by means of unbridled digitalization. The dismantling of liberal democracies is creating an alliance between authoritarian states and large, data-rich IT monopolies. The introduction of data-driven technologies increasingly requires the rollback of liberal rules and laws to make way for a political economy based on mass surveillance and AI. The rise of neo-illiberalism is reminiscent of the totalitarian and therefore illiberal current against which twentieth-century liberalism defined itself: fascism. Today's pre-fascism is the result of a capitalist system that is escaping its liberal principles of order and in which financial capital is increasingly absorbed by technology. Fabio Vighi also speaks of an illiberal meta-emergency world system that is currently emerging.

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